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EU Decision-Making: New Blocking Powers for the European Parliament

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Report Highlights:
As of now, the European Parliament (EP) can block Commission decisions. Council Decision 2006/512/EC introduces a new "supervisory phase" to the EU's decision-making process which gives the EP blocking powers. By giving the EP blocking powers, the EU decision-making process becomes highly politicized. The slow and cumbersome EU decision-making process will become even slower and reaching agreement on sensitive issues such as the use of AMTs, new GM varieties or new health claims on food labels will be a long and difficult process.

Includes PSD Changes: No
Includes Trade Matrix: No
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Politicization of EU Decision-Making – New "Blocking" Powers for the European Parliament

EU Decision-Making: the Co-Decision Procedure

Commission proposals in policy areas such as food safety, health and consumer protection, and environment must be adopted under the co-decision procedure (art. 251 of the EC Treaty). Under the co-decision procedure, the Council and the European Parliament (EP) act as co-legislators, which means that both the Council and the EP have to adopt the final text. When a new EU law is adopted, implementing powers are often delegated to the Commission. It is in the implementation phase that "Comitology" comes into play. To its big frustration, the EP had no co-decision powers in this phase.

A piece of legislation goes through 3 phases:

For example: The Council and the EP adopted the Commission's proposal on genetically modified food and feed (Regulation 1829/2003) but approving a GMO variety is done in the implementation phase. In other words, the Council and the EP adopt the framework regulation, but the measures needed to implement the framework regulation are adopted under the executive duties of the Commission (Comitology).

Comitology

Comitology refers to the committee procedure to adopt measures needed for the implementation of EU laws. EU executive power belongs to the Council who can delegate this power to the Commission. Most EU rules are not enacted as legislation by the Council and the EP but as implementation measures under the Commission's executive duties.

When implementing powers are delegated to the Commission, it is the Council that keeps some legislative control through the "comitology committees" which are composed of member state experts. Comitology committees often deal with the day-to-day management of technical issues but also with highly sensitive political issues such as the approval of GMOs.

Currently, only a comitology committee and not the EP has the right to block the Commission's implementing decisions. The Commission, when executing its delegated implementing powers, can proceed with decisions even if the EP opposes them. If a comitology committee does not come to an agreement on a proposed measure, it refers the issue back to the Council alone, with no Parliamentary involvement. The Council then decides if it wishes to revoke the executive powers it delegated to the Commission and take the decision itself, amend it or reject it. If the Council fails to reach a decision, the Commission takes its proposal back and makes a decision on the text it initially proposed to the Council.

For example: Applications for the authorization of agricultural biotech products can be filed under framework regulation 1829/2003. A company must submit an application to the competent authorities in the member state where the product will first be marketed and if the European Food Safety Authority issues a positive risk assessment, the application is forwarded to the Commission. The Commission then has 3 months to present a proposal

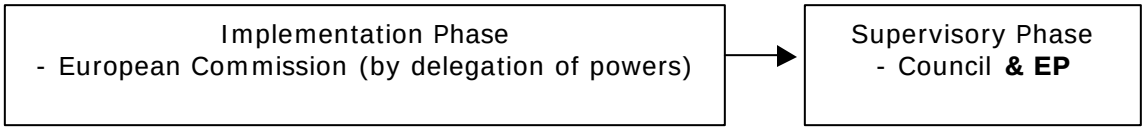
recommending that the member states authorize the product. The member states then review and vote on the proposal in a regulatory (comitology) committee. If the committee fails to come to an agreement, the proposal goes to the Council for review. The Council has 3 months to make a decision. If the Council fails to reach a decision, the Commission may then authorize the marketing of the product. (Annual Biotechnology Report E36080)

New Comitology Procedure

At present, the EP only has a "right of scrutiny" for draft implementing measures. This right gives the EP a one-month delay to object to the proposed measure if it believes that the Commission has exceeded its implementing powers. The Commission can adopt the measures only after expiration of this delay.

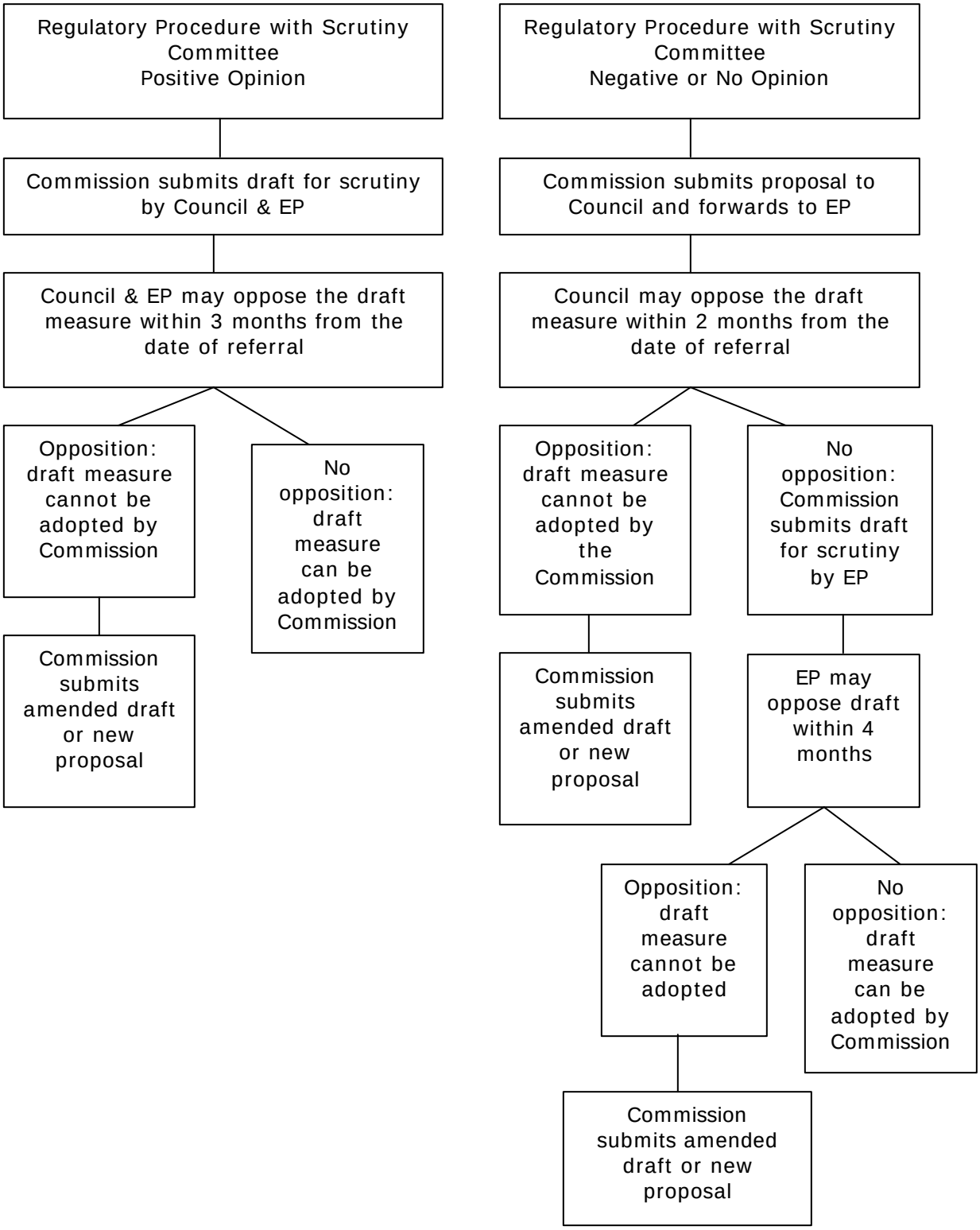
For many years, the EP has been fighting to win parity with the Council for all comitology procedures related to co-decision acts. Minor changes to the procedure, i.e. keeping the EP better informed of comitology decisions, were made in the 1999 Decision on comitology but a major change was expected with the ratification of the new EU constitution. As the ratification of the new Constitution has been postponed for at least two years, the EP re-opened negotiations with the Council and the Commission on a new comitology procedure. On July 5, after five months of negotiations during which the EP used its budget powers to put pressure on the Council, the three EU institutions reached a compromise to reform the current procedure.

Council Decision 2006/512/EC amends the 1999 Decision on comitology. It introduces a new "supervisory phase", the so-called "regulatory procedure with scrutiny", to the decision-making process. This new phase places the EP on equal footing with the Council in the comitology procedure. As of now, draft implementation measures under co-decision must be submitted to both the Council and the EP and for the first time, the EP will be able to block any of the proposed measures. This will require an absolute majority of members of Parliament, i.e. more than 366 of the 732 members of Parliament will have to vote in favor.



Under the new regulatory procedure, draft implementation measures must first be submitted to a "Regulatory Procedure with Scrutiny Committee", composed of member state experts and chaired by a representative of the Commission. The committee then delivers an opinion on the draft within a time-limit set by the chairman according to the urgency of the matter. Depending on the committee's opinion, different procedures apply under which both legislators can, within a certain deadline, express their opposition to the draft.

Regulatory Procedure with Scrutiny



The new regulation also provides for a derogation from the time-limits: a one-month extension when justified by the complexity of the measure or a curtailment where justified on the grounds of efficiency. Emergency measures can be adopted by the Commission but must be communicated to the Council and the EP. Both the Council and the EP may oppose the measures within a one-month time-limit. In the event of opposition, the Commission must repeal the measure. However, when justified on health protection, safety or environmental grounds, the measure may remain in force until the Council and EP approve an amended or new Commission proposal.

What does it mean?

The slow and cumbersome EU decision-making process will become even slower and reaching agreement on sensitive issues such as GMO's will be a difficult process. By giving the EP blocking powers, the EU's decision-making process becomes highly politicized.

Under the old system, only a committee composed of technical experts such as the Standing Committee on the Food Chain and Animal Health, could block a draft implementation measure and refer the issue to the Council. If the Council did not take a decision within 3 months, the Commission could adopt the measure, which is how the first GM agricultural products were approved in the EU. Under the new regulatory procedure, the EP will also be able to block draft implementation measures. In many instances the EP's approach may be a political one and not one that takes into account the objective scientific evaluations, delivered by the European Food Safety Authority (EFSA), of for example new GM varieties, the use of antimicrobial treatments (AMTs), new health claims on food labels or maximum levels of vitamins in fortified foods.

Existing legislation adopted under the co-decision procedure will be adapted to the new regulatory procedure with scrutiny by the end of 2007. However, a list of 25 legislative acts that should be adapted to the new procedure "as a matter of urgency" has been put forward by the EP and includes:

- Regulation on nutrition and health claims made on foods (not yet published)
- Regulation 396/2005 on maximum levels of pesticides in or on food and feed
- Regulation 1829/2003 on genetically modified food and feed
- Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms
- Directive 98/8/EC concerning the placing of biocidal products on the market

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